84

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION (C) NO.5333 OF 2006

PETITIONER: Sarita Bafana, W/o Shri Moti Chand Bafana, aged about 46 years, Mines owner, R/o Gandhi Chowk, Mahasamund (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh, Through the Secretary, Department of Mines, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
2. Under Secretary, Department of Mineral Resources, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
3. Collector (Mines Section), Mahasamund (C.G.).
4. Mining Officer, Office of the Collector, Mahasamund (C.G.)
5. Revenue Inspector (Mining Section), Office of the Collector, Mahasamund (C.G.).
6. Chief Executive Officer, Village Panchayat, Ghodari, District-Mahasamund (C.G.).

Present : Shri Prashant Jaiswal, learned Sr. Advocate with Shri Ali Asgar, learned counsel for the petitioner.
Shri Sanjay S. Agrawal, learned G.A. for the State of C.G. and its authorities.

ORAL ORDER

(Passed on 6th October, 2006)

In this writ petition, the action of the respondents refusing to renew mining lease has been assailed. It was contended by the learned counsel for the petitioner that in terms of Rule 26 of the Mineral Concession Rules, 1960

(for short 'the Rules'), the State Government is duty bound to give an opportunity of being heard to an applicant before refusing to renew a mining lease and in the instant case such opportunity was not given to the petitioner. It was also contended that the reasons stated by the Government in the impugned order that if the mining lease is granted, Mahanadi river would be damaged, is also not well founded, because, the subsequent reports of the Government authorities themselves would show that quarrying in the vicinity of the banks of the river are not causing any danger to the river. There is no need for the Court to appreciate the above reason stated by the State Government in the impugned order, and it is for them to appreciate whether the subsequent reports of the Government authorities have indicated to the contrary. Suffice it to state that in terms of sub-Rule (1) of Rule 26 of the Rules before refusing renewal of the mining lease to the petitioner, the State Government ought to have given opportunity of being heard to the petitioner and since that has not been done in the instant case, on that short ground, the writ petition deserves to be allowed.

(2) In the result, the writ petition is allowed. The impugned orders are quashed. The State Government is directed to consider the application of the petitioner for renewal of the lease *de novo* and pass appropriate orders after giving opportunity of being head to the petitioner to have his say in the matter, within a period of three months. No costs.

Sd/-
Chief Justice